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MAY 21 2004

PATENT  
730083-2000.2IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Stelzer, et al.  
Serial No. : 09/943,346  
For : MINIMALLY INVASIVE SURGERY DEVICE  
Filed : August 29, 2001  
Examiner : Catherine Serke  
Art Unit : 3763

745 Fifth Avenue, New York, NY 10151

EXPEDITED PROCEDURE  
RESPONSE AFTER FINAL ACTION  
UNDER 37 C.F.R. 1.116

FACSIMILE

I hereby certify that this paper is being facsimile transmitted to the  
Patent and Trademark Office on the date shown below.

Anne-Marie C. Yvon, Reg. No. 52,390

Type or print name of person signing certification



Signature

May 21, 2004

Date of Signature

TERMINAL DISCLAIMER

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This is in response to the January 21, 2004 Office Action.

I, Matthew K. Ryan, declare that I am the attorney of record and that I am authorized to execute terminal disclaimers on behalf of Paul Stelzer and Stuart Stelzer ("the Applicants");

That the Applicants own the entire right, title and interest in, to and under the present application, U.S. application Serial No. 09/943,346, as a divisional of U.S. application Serial No. 09/247,707, filed on February 9, 1999, now U.S. Patent No. 6,309,345, which is a continuation-in-part of U.S. application Serial No. 08/916,147, filed on August 21, 1997, now U.S. Patent No. 5,924,976;

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That the Applicants hereby disclaim the terminal part of any patent granted on the present application which would extend beyond the expiration date of the full statutory term of U.S. Patent No. 6,309,345;

That the Applicants hereby agree that any patent so granted on the present application shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to U.S. Patent No. 6,309,345, this agreement to run with any patent granted on the present application and to be binding upon the grantee, its successors or assigns;

That no terminal part of any patent granted on the present application is disclaimed prior to the full statutory term of U.S. Patent No. 6,309,345, in the event that U.S. Patent No. 6,309,345 earlier expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or is terminally disclaimed under 37 C.F.R. §1.321(a), has all claims cancelled by a reexamination certificate, or is otherwise terminated prior to expiration of its full statutory term, except for the separation of legal title stated above;

In accordance with 37 C.F.R. § 3.73(b), the undersigned attorney of record, empowered to sign this Statement on behalf of the assignee, states that the Applicants own the entire right, title and interest in the patent and patent application identified above (U.S. Patent No. 6,309,345 and the present application);

Reconsideration and withdrawal of the double patenting rejection are respectfully requested and consideration, entry and recordation of this Terminal Disclaimer are also earnestly solicited, with any fee therefor or any overpayment in such fees, to be charged or credited to Deposit Account No. 50-0320.

It is also noted that this paper is being provided merely to expedite prosecution and is presented without admission, without prejudice, without surrender of subject matter, without any intention of creating any estoppel as to equivalents.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP

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